

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

FILED

MAY 24 2011

Board of Vocational Nursing
and Psychiatric Technicians

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2008-876

13
14 **RICHARD LEWIS DEBAR**
190 Fallbrook Avenue
15 Newbury Park, CA 91320

A C C U S A T I O N

16 **Vocational Nurse License No. VN 125737**

17 Respondent.
18

19
20 Complainant alleges:

21 **PARTIES**

22 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this accusation solely
23 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
24 Psychiatric Technicians, Department of Consumer Affairs, State of California.

25 2. On or about March 5, 1985, the Board of Vocational Nursing and Psychiatric
26 Technicians issued Vocational Nurse License Number VN 125737 to Richard Lewis Debar
27 ("Respondent"). The license will expire on August 31, 2012, unless renewed.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 2518.5 provides:

"The licensed vocational nurse performs services requiring technical and manual skills which include the following:

(a) Uses and practices basic assessment (data collection), participates in planning, executes interventions in accordance with the care plan or treatment plan, and contributes to evaluation of individualized interventions related to the care plan or treatment plan.

(b) Provides direct patient/client care by which the licensee:

(1) Performs basic nursing services as defined in subdivision (a);

(2) Administers medications;

(3) Applies communication skills for the purpose of patient/client care and education; and

(4) Contributes to the development and implementation of a teaching plan related to self-care for the patient/client."

9. California Code of Regulations, title 16, section 2518.6 provides:

"(a) A licensed vocational nurse shall safeguard patients'/clients' health and safety by actions that include but are not limited to the following:

(1) Reporting to the Board acts specified in Sections 2878 and 2878.5 of the Business and Professions Code;

(2) Documenting patient/client care in accordance with standards of the profession; and

(3) Performing services in accordance with Section 125.6 of the Business and Professions Code.

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

(1) Maintaining current knowledge and skills for safe and competent practice;

(2) Maintaining patient/client confidentiality;

(3) Maintaining professional boundaries with the patient/client;

(4) Abstaining from chemical/substance abuse; and

(5) Cooperating with the Board during investigations as required by Section 2878.1 of the Business and Professions Code.

(c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action."

22
23
24
25
26
27
28

COST RECOVERY

10. Code section 125.3 provides in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Excessive Force, Mistreatment, Abuse of Patient)**

3 11. Respondent's license is subject to discipline under Code section 2878(a)(4) for
4 unprofessional conduct because of Respondent's use of excessive force upon, or the mistreatment,
5 or abuse of a patient while performing services as a licensed vocational nurse. The circumstances
6 are as follows:

7 a. Between July 28, 2008 and September 25, 2008, the Respondent was employed as a
8 licensed vocational nurse at Cottage Rehabilitation Hospital in Santa Barbara, CA.

9 b. The Respondent was assigned to assist a 21-year-old male adult patient who has a
10 brain injury and is blind. The patient, identified with the initials "N.C." sometimes exhibits signs
11 of being withdrawn or frustrated, but can interact with adults.¹

12 c. Patient "N.C." uses a wheelchair and needs help walking and to avoid falling down.
13 Patient "N.C." has a history of getting upset and agitated when physically touched, which
14 sometimes leads to "code green" incidents. At Cottage Rehabilitation Hospital, a code green is
15 the term used to describe a situation where a patient is not being physically compliant and the
16 hospital staff needs help to restrain a patient.

17 d. On or about September 7, 2008, patient "N.C." became agitated while eating dinner.
18 The Respondent and other hospital staff members entered the room to restrain patient "N.C." and
19 a struggle ensued during the code green incident. During a physical struggle the Respondent's
20 watchband broke. As other staff members held down Patient "N.C." and tried to place him into a
21 bed, the Respondent allegedly grabbed patient "N.C." by the throat. The Respondent admits, his
22 "hand slid up towards ["N.C."] throat" but denies choking or squeezing the patient's throat.

23 e. On or about September 9, 2008, patient "N.C." was seated in a wheelchair and stood
24 up so that a hospital staff member could help place patient "N.C." into a bed with special
25 restraints. The Respondent entered the room and then exited the room allegedly calling out "we
26 have a code green situation." As other hospital staff members entered the room, the Respondent

27 ¹ Initials used to preserve patient confidentiality. The complete patient name may be
28 disclosed pursuant to a request for discovery.

1 allegedly pushed patient "N.C." into the bed and lifted the patient's legs. Patient "N.C." began
2 struggling and spitting. The staff was able to place patient "N.C." into the bed and fasten a mesh
3 enclosure around the patient. The Respondent exited the room and allegedly noticed saliva on his
4 clothing. The Respondent reentered the room and allegedly struck patient "N.C." with a closed
5 fist on the torso and leg area and in the presence of other hospital staff. The Respondent admits
6 striking patient "N.C." with his right hand but claims he only used his palm to hit the patient.

7 f. On or about the week of September 1, 2008, the Respondent allegedly placed a
8 television near the head of patient "N.C." and turned up the volume. Patient "N.C." had not
9 requested for the television to be turned on. The television was on a Spanish channel and patient
10 "N.C." began yelling to turn off the television. Another hospital staff member turned off the
11 television and the Respondent allegedly went back into the patient's room to turn the television
12 back on. The Respondent admits he knew that patient "N.C." "did not like the television loud."
13 The Respondent admits he "walked into ["N.C."] room, turned up the volume on the television,
14 and told ["N.C."] once he calmed down he would turn down the television." The Respondent
15 states "this was not done to be mean, but as a way to have ["N.C."] cooperate."

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Failure to Adhere to Standards of the Profession)**

18 12. Respondent's license is subject to discipline under Code section 2878(a) in
19 accordance with California Code of Regulations, title 16, section 2518.6(b), for unprofessional
20 conduct because the Respondent failed to adhere to standards of the profession and failed to
21 incorporate ethical and behavioral standards of professional practice.

22 a. Complainant refers to and by this reference incorporates the allegations set forth
23 above in paragraph 11 inclusive, as though set forth fully herein.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Violation or Attempted Violation of Medical Practice Act)**

26 13. Respondent's license is subject to discipline under Code section 2878(d) for
27 unprofessional conduct because the Respondent violated or attempted to violate, directly or
28 indirectly, or assisting in or abetted the violating of, or conspiring to violate any provision or term

1 of the Vocational Nursing Practice Act (*See Code Section 2840*).

2 a. Complainant refers to and by this reference incorporates the allegations set forth
3 above in paragraph 11 and 12 inclusive, as though set forth fully herein.

4 **PRAYER**

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
7 issue a decision:

- 8 1. Revoking or suspending Vocational Nurse License Number VN 125737, issued to
9 Respondent Richard Lewis Debar;
- 10 2. Ordering Respondent Richard Lewis Debar to pay the Board of Vocational Nursing
11 and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this
12 case, pursuant to Business and Professions Code section 125.3; and,
- 13 3. Taking such other and further action as deemed necessary and proper.
- 14
- 15

16 DATED: May 24, 2011.



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

21 LA2010600714
22 50864207_02.docx

23

24

25

26

27

28